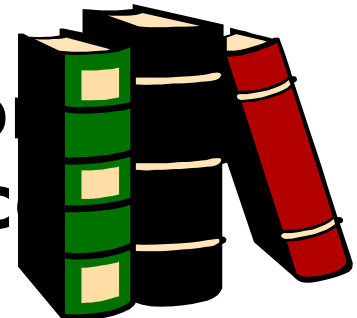
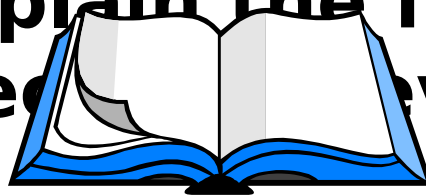


LABOR RELATIONS



OBJECTIVES

- **Be able to identify workplace matters that have collective bargaining implications.**
- **Be able to identify workplace discussions that require union coordination.**
- **Be able to explain the factors involved in effective management.**



LEGAL FRAMEWORK

- **Federal Service Labor-
Management Relations
Statute - 5 USC 71**

- **Case Law - Federal Labor
Relations Authority and**

Courts

**Reference Guide: Supervisor's Guide on Labor
Management Relations (www.cpms.mil/fas/fas/ht)**

WHO IS COVERED

- **Most Federal employees are covered by the Labor Relations Statute.**
- **Exclusions:**
 - **Supervisors**
 - **Management Officials**
 - **Confidential Employees**
 - **Employees in personnel work other than purely clerical**
 - **Employees who administer the Labor Relations Statute**

EMPLOYEE RIGHTS

➔ **Form, join or assist a labor organization or refrain from doing so without fear of penalty or reprisal.**

➔ **Act as a Union representative (Shop Steward, Local President, National Representative, etc).**



UNION RIGHTS

➔ **Represent all employees in the unit.**

➔ **Negotiate with the Agency.**

➔ **Be present at certain discussions**



UNION RESPONSIBILITIES

- **Represent interests of all bargaining unit members, regardless of union membership.**
- **Negotiate with management in “good faith”.**



OFFICIAL TIME

(5 USC 7131)

- **Unlimited for negotiations**
- **None for internal union business**
- **Required for FLRA business**
- **Amount negotiable for other uses**

Official Time is defined as: Duty time that is granted to union representatives to perform union representational functions, without charge to leave or loss of pay, when the employee would otherwise be in a duty status. Time is considered to be hours of work.

MANAGEMENT RIGHTS

- **To make basic management decisions**
 - **Mission, budget, organizations, security, emergencies**
- **To take personnel actions**
 - **Hire, direct, layoff, and retain employees**
 - **Remove, reduce in grade or pay, take disciplinary actions**
 - **Assign work, contract out, promote**

(5 USC 7106(a))

WORKPLACE CHANGES

- **Working conditions**
- **Personnel policies and practices**
- **Affecting bargaining unit employees**
- **Except policies...**
 - *Provided for by statute*
 - *Relating to classification*
 - *Relating to political activities*

WORKPLACE CHANGES

- **Make sure to:**
 - **Notify Union - before implementation.**
 - **What changes are intended and when they would become effective.**
 - **If there is no response, implement on the specified date.**
 - **If the Union asks to negotiate, normally bargain to completion before affecting the proposed change.**

PAST PRACTICE

- **Pertains to condition of employment (e.g., CDs at employee workstations)**
 - **Unwritten**
 - **Consistently practiced over extended period of time**
 - **Known about and accepted by both parties**
- ***Note: Change in practice triggers bargaining obligation***

WORKPLACE CHANGES

- **Do not:**
 - **Assume that there is no obligation to notify the Union because you are exercising a management right.**
 - **Notify the Union at the last minute, without giving a reasonable amount of time to consider the change.**
 - **Implement before reaching agreement**
 - **Make changes without notification in hopes that the Union won't notice.**

FORMAL DISCUSSION

- **One or more management official and one or more employee or representative; and**
- **Concerns a grievance or any personnel policy or practice or other general condition of employment -- not individual concerns:**
 - **Union must be invited**
 - **Union selects rep**
 - **Union allowed to comment during meeting**
 - **Cannot disrupt meeting**
- **Not normal shop talk**

FORMAL DISCUSSION

(cont'd)

- **DISCUSSION** - Can be one-way
- **FORMAL**
 - **First-level supervisor or higher level management**
 - **Location of meeting**
 - **Length of meeting**
 - **How meeting was called (spontaneously or scheduled in advance)**
 - **Written formal agenda**
 - **Mandatory attendance**
 - **Manner conducted (attendance & comments noted)**

INVESTIGATIVE DISCUSSIONS

(“WEINGARTEN” RIGHT)

- ◆ **Not like Miranda right**
 - * **Check the labor agreement**
- ◆ **Union can participate in discussion**
 - * **Cannot answer for employee**
- ◆ **Not applicable to performance counseling or issuance of notice of discipline**

INVESTIGATIVE DISCUSSIONS

“WEINGARTEN” RIGHT (cont’d)

◆ Criteria:

--Employee reasonably believes discipline could result (not based on supervisor’s intent); and

--Employee requests representation.

INVESTIGATIVE DISCUSSIONS

(“WEINGARTEN” RIGHT cont’d)

- If the employee requests a representative, supervisor may:**
 - Simply end the meeting and not call in a union rep;**
 - Temporarily stop the meeting long enough to obtain union representation.**
 - Offer the employee the alternative to continue w/o union representation or forgo having a meeting to make his/her points.**

EXERCISE TIME

Read each situation and decide if it is (a) a formal discussion; (b) a Weingarten examination; (c) neither; or (d) both. Be prepared to explain your answer.



- 1. A first line supervisor holds an impromptu meeting of bargaining unit employees to discuss shop safety procedures.**
- 2. A personnelist meets with a unit employee to conduct a classification desk audit. The employee requests union representation.**
- 3. During a staff meeting where no union representative is present, a unit employee asks a supervisor how the new procedure for assigning overtime will be implemented. The supervisor explains the new procedure.**
- 4. A supervisor arranges a meeting with a unit employee to counsel her on her performance. She requests union representation.**

5. After a grievance has been orally filed with a first line supervisor, the supervisor meets with unit employees who have knowledge of the matter to gather information.

6. Management initiates a monthly meeting of supervisors to discuss their employees' problems.

7. While investigating the cause of an accident in the laboratory, a supervisory chemist meets with individual unit members who were present. One requests union representation; two others do not.

8. A supervisor meets with a unit employee to find out why he is late for the third time in two weeks. Midway through the meeting, the

9. After noting some processing errors, a supervisor meets with a unit employee to review the procedure for filling out purchase orders. Before they start, the employee requests union representation.

10. At a luncheon sponsored by the Federal Women's Program, the FWP coordinator will give a presentation on "The Special Problems of Women" at the activity. Attendance is voluntary and open to all employees.

UNFAIR LABOR PRACTICES

Management

- **Interfere with employee rights**
- **Encourage or discourage union membership**
- **Sponsor, control, or assist a union**
- **Discriminate against employees for participation in proceedings covered by the LR Statute**

UNFAIR LABOR PRACTICES

Management

- **Failure to negotiate in good faith**
 - **Unilateral change in C/E**
 - **Contract breach (repudiation)**
 - **Failure to negotiate I&I**
 - **Refusal to furnish information**
 - **Bypassing the union**

UNFAIR LABOR PRACTICES

Management

- **Fail to cooperate in FSIP proceedings**
- **Enforce any regulation in conflict with a collective bargaining agreement if the agreement predates the reg**
- **Fail to comply with any provision of the LR Statute**

UNFAIR LABOR PRACTICES

Union

- **Interfere with employees' rights**
- **Cause an agency to discriminate against employees**
- **Act against union members to impede performance or productivity**
- **Discriminate against employees because of race, sex, religion, etc.**

UNFAIR LABOR PRACTICES

Union

- **Fail to negotiate in good faith**
- **Fail to cooperate in FSIP proceedings**
- **Call or participate in a strike or fail to prevent or stop a strike**
- **Fail to comply with any provision of the LR Statute**

ARBITRATION

- **Any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration:**
 - **May be invoked by management or the union (not by the employee)**
 - **Binding on both parties**
- **Few procedural rules**
- **Decisions (awards) are not precedential**



ARBITRATION (cont)

- **Arbitrator may award compensatory damages**
- **Exceptions to award may be filed within 30 days**
- **The FLRA may modify an award**
- **Costs for arbitration based on CBA.**

3rd Parties in Negotiation Disputes

- **Federal Labor Relations Authority**
--Resolves negotiability disputes
- **Federal Mediation & Conciliation Service**
--Mediates negotiation impasses
- **Federal Service Impasses Panel**
--Resolves negotiation impasses